



Michigan Association of Planning
A Chapter of the American Planning Association

December 11, 2017

The Honorable Representative Glenn
And Members of the House Committee on Energy Policy

Re: House Bill 4968

Honorable Representative Glenn and Committee Members:

I am writing to oppose House Bill 4968 as introduced, which seeks to amend the Michigan Planning Enabling Act (MPEA), Section 15 (9), to expand the conflict of interest provisions and call out disqualification for financial interest. We have myriad issues with inclusion of this language including the following:

1. HB 4968 does not define what constitutes a "direct financial interest." This establishes a future where there will likely to be much arguing over what is meant by the term. It is not fair for the legislature to adopt a vague standard and leave it to the locals to figure out what it means, especially if the interpretation comes in the end through litigation.
2. The amendment does not distinguish between the types of votes cast by a planning commissioner. There are votes on master plans, master plan amendments, recommended zoning map and text amendments, special use permit approvals, site plan approvals. The impact of a Planning Commission member vote on a proposed zoning text amendment is different than that Planning Commission member's vote on a special land use permit where the Planning Commission is the body that approves issuance of the permit. There is a difference between a recommendation on legislation that will be subject to further action by the legislative body, and an action that leads to a land use permit. The conflict of interest analysis is different in the legislative context, particularly given the availability of referendums on zoning changes.

The most common conflict of interest issues involve a financial conflict of interest. For example a familial, friend, or boss conflict of interest (i.e. one of them own the property in question or have an interest in it) or the property is nearby where the decision maker lives, works or owns a business (or has an interest in one of those properties).

As a result, many local conflict of interest provisions in local rules of procedure or bylaws already directly address these situations; there could also be others.

Explicitly adding "direct financial interest" to the MPEA/MZEA without also adding other types of potential conflicts noted above will set up a situation where ONLY financial conflicts of interest will matter.

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And finally, if an issue arises that is **not** a financial conflict of interest, it would not qualify t qualify as a conflict of interest since it isn't listed.

The most important point missing from the proposed amendment is the question: Can the local official / decision maker objectively sit in deliberation of the request at hand? If that person can, to the satisfaction of the whole decision body after discussion of all the relevant facts, then usually local rules allow that person to sit on the case, deliberate and decide. If a person is removed because of a conflict of interest and the community has no provision for backup members of the Planning Commission or the Zoning Board of Appeals that puts the applicant's request at risk because there is one (or more) fewer persons to sit in deliberation of the request, and that is often unfair.

The Michigan Association of Planning, a 501 c 3 Non-Profit organization with more than 4,000 members, representing professional planners and elected and appointed officials. We conduct training for officials on municipal risk management including conflict of interest. We participated on the workgroups established in 2006 and in 2008 that unified the Planning Enabling Act and the Zoning Enabling Act. We are deeply

If changes are to be made to the Conflict of Interest provisions of the Planning Enabling Act they should be better thought out.

Our organization has not heard of a single issue or complaint about the existing conflict of interest language in the MPEA that has been in place for decades. We urge you to not move this bill out of committee. I am happy to meet with you or members of your committee to discuss other ways to address the perceived problem.

Sincerely,



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